MC 3164/2007
BEFORE
THE HON'BLE MR JUSTICE H N SARMA

Heard Mr. P.Kataki, learned counsel appearing for the applicant/writ petitioner. Also heard Mrs. Rekha Chakraborty, learned Government Advocate.

Considering the pendency of the main writ petition no. 66/07, due to certain change of circumstances, this present Misc. Case has been filed by the writ petitioner.

In the writ petition, the action of the Deputy Commissioner to tag the petitioner society with GPSS level society for the purpose of lifting PDS quota for the district of Bongaigaon, the petitioner has approached this Court by filing this writ petition.

This Court vide order dated 8.1.2007 passed an interim order directing to maintain status-quo as regards lifting of PDS quota in respect of the society of the petitioners. While the matter continued as per the aforesaid arrangement and the petitioner was lifting the PDS quota for its society, the Secretary of the Society Shir Keshab Singha being faced with a criminal case is behind the bar since the month of July. Although the Secretary of society authorized him so to lift the quota, that has not been acted upon and in the process the quota for July could not be lifted, causing immense hardships to the members and shareholders of the petitioner's society. When this matter was brought to the notice of the Deputy Commissioner, Bongaigaon, the order dated 21-7-2007 was passed by which power and authority to lift PDS items by Shir Keshab Singha has been entrusted to one Smt. Giribala Roy. Faced with such situation, petitioner Society whose area of operation is the District of Bongaigaon with ten numbers of Gaon Panchayat Level Samabay Samity(GPSS) held a general meeting of the shareholders on 14.8.2007. In the said meeting vide Resolution No. 1, a new Committee has been constituted with Md. Kabir Ali as President and Gadlu Ram Barman as Secretary. Vide resolution no. 2 adopted in the said AGM the responsibility of lifting PDS items have been entrusted to the Secretary Shri Gadlu Ram Barman. Based on the said resolution a prayer was made to the Deputy Commissioner on 21-8-2007 asking him to allow Gadlu Ram Barman the new Secretary of the Society to lift PDS items for ten members of GPSS of TRCS/petitioner, but no action has been taken so far by the Deputy Commissioner.

Ms. R. Chakraborty, learned Government Advocate on the basis of the written instruction received from the Deputy Commissioner submits that the prayer of the petitioner has not been allowed in as much as one Siri Maheswar Basumatary is the Secretary and Gopinath Warry is the president of the petitioner's society (TRCS) and as such they are only authorized to lift the PDS items for the society.

Mr. Kataky however submits that the aforesaid two persons are in fact the Secretary and President in respect of the TRCS which is operating from the Chirang district and the petitioner is concerned with 10 members of GPSS falling within the Bongaigaoin district and they are distinct and separate from that of the society operating at Chirang district. In support of the said submission Mr. Kataki has also produced before me an allotment order of 27 items dated 12.7.2007 for the month of July issued by the Deputy Commissioner which go to show that in fact such allotment order in respect of 10 members of GPSS society which forms the petitioner's society operating in the district of Bongaigaon, for the earlier month.

In the written instruction provided by the Deputy Commissioner there is no mention about the formation of the new managing committee of the Society on 14.8.2007. Such Co-operative Societies are formed for the purpose of providing benefit of distribution of PDS items under the governmental scheme to different shareholders who are entitled for such items.

As noted above, quota for the month of July could not be lifted causing tremendous hardship to the shareholders of the society. In the above facts situation, in the interim, until further order, it is provided it is provided that in terms of the status-quo order passed by this Court on 8.1.2007 the PDS items for 10 societies of TRCS falling within the Bongaigaon district be allowed to be l

ifted by its new Secretary Gadlu Ram Barman or by the President Kabir Ali as the case may be. However, in the event of any discrepancies in the distribution of the PDS items, the aforesaid President and Secretary would remain personally liable to the authority. Although the month of July is ending by now, the Deputy Commissioner shall not refuse to issue quota for any such no lifted period for the month of July, if it is permissible within the rules and guidelines, covering the field.

A copy of the instruction so furnished by Mrs. R. Chakraborty be kept on record.

Misc. case disposed of.